

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BRYAN FERNANDEZ, et al., :  
  
Plaintiffs, : 16 Civ. 2762 (GWG)  
  
-v.- : ORDER  
  
HR PARKING INC., et al., :  
  
Defendants. :  
-----X  
**GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE**

A jury trial is scheduled in this matter for June 14, 2021. Jurors are being summoned for the trial but there is another case with priority over this one and we cannot be sure this case will proceed on June 14 until we know if the other case goes forward, which may not occur until the day of the trial. (That other case is a criminal case. If the defendant pleads guilty, the criminal case would not go forward and this case would go forward instead.) Nonetheless, for now, counsel and their witnesses must proceed as if the case is going forward on June 14.

The Court's website contains information regarding courtroom protocols which counsel should review carefully to ensure that they and their witnesses will be in compliance. The information is available at: <https://www.nysd.uscourts.gov/covid-19-coronavirus>. The current protocols are available in the documents entitled: "Restrictions on Entry to Courthouses (21 misc 164) (May 18, 2021)" and "Entry Protocol for Travelers (April 9, 2021)." Please note that the travel restrictions may limit the possibility of your or a witness entering the courthouse depending on locations visited and vaccination status.

The Court has the ability to hear witnesses by video if the parties stipulate to doing so under Fed. R. Civ. P. 43(a) or if an application is timely made. Any contested application or stipulation should be filed on or before June 1, 2021. If contested, any response will be due June 4, 2021. Any witness appearing remotely must have access to a web browser with Wi-Fi (thus, not a cellphone using data). The witness will be instructed to click on a link using Microsoft Teams and will be required to download a "guest" version of the Microsoft Teams app. We of course cannot guarantee the operation of the system. If it does not work, the witness may have to be ready to testify in person (and only if the trial schedule permits). The witness must be available to test the system during the week before the trial.

All exhibits must be offered in electronic rather than paper form. The parties have already provided the exhibits in PDF form. Each attorney needs to bring a laptop to the courtroom. Counsel will be able to connect the laptop to Wi-Fi in the courtroom, which will allow them to share documents on their laptop screen (including exhibits) with the jury, the Court and the witness. Witnesses, the Court and the jury will have access to a computer monitor for purposes of viewing the screenshare from the attorney.

The parties will be contacted in advance of trial to test the system and potentially visit the courtroom. If there are any questions about the audio/visual aspects of the trial, they may be directed to Jimmy Griffenkrantz at (212) 805-0134.

Per the last conference with the attorneys in December, the Court has allocated six trial days to the trial. It is assumed that the morning of day 1 (and perhaps some of the afternoon) will be taken up by jury selection. The final day is allocated to summations, the jury charge, and deliberations. Accordingly, there will be 4-1/2 days of witness testimony. We expect that will amount to approximately 24 hours of trial time. Counsel are directed to consult with each other to determine how the 24 hours should be allocated to each side. Each side will have a fixed number of hours (A) to present its direct case and (B) to conduct any cross-examination of witnesses called by other parties. (The Court will keep track of the time for each party.) The number of hours allocated to each party must add up to 24. If agreement cannot be reached as to the allocation, the dispute may be presented to the Court by means of letters filed on or before June 1, 2021.

Finally, the criminal trial is being tried by another judge. Accordingly, if all parties file a stipulation withdrawing any previous demands for a trial by jury, and agreeing to a bench trial, the case will proceed on June 14, 2021, as a bench trial before the undersigned regardless of the status of the criminal case.

SO ORDERED.

Dated: May 19, 2021  
New York, New York

  
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GABRIEL W. CORENSTEIN  
United States Magistrate Judge

## **Information re: Courthouse COVID-19 Policies**

The Southern District has implemented procedures to minimize the risk of COVID-19 transmission during trial. We are providing this document so counsel will be aware of these procedures and will ensure that they are complied with.

### **Entrance Restrictions**

Anyone who enters the courthouse must comply with certain restrictions as reflected in the protocols on the court's website: <https://www.nysd.uscourts.gov/covid-19-coronavirus>. Please note that there are specific testing requirements regarding persons who have traveled anywhere outside New York State including other states (other than New Jersey, Pennsylvania, Connecticut, Massachusetts, and Vermont) and abroad. This may affect your ability to call witnesses so be sure to ensure the protocol is followed as to each witness.

### **Trial Procedures**

Everyone entering the courthouse and the courtroom must wear a mask. (Bandanas, neck gaiters or masks with vents or exhalation valves are not permitted). The courthouse will provide masks, if necessary, to visitors. Please be sure your witnesses are aware of this requirement. Persons not compliant with the Court's rules will not be permitted in the courtroom.

While in the Courtroom, everyone must wear a mask at all times except if they are at the podium or on the witness stand, which are equipped with plexiglass enclosures and HEPA filters.

Courtrooms have been set up to allow for physical distancing in accordance with public health guidelines. Sitting areas are specifically designated. Even persons from the same household must remain physically distanced while in the courtroom unless it is a parent accompanying a young child. There are seats for only approximately 12 spectators. After capacity has been met, no one else will be permitted to enter the courtroom.

Parties may not congregate in the courthouse or in the courtroom. Counsel must socially distance from each other. There will be room for a total of 3 attorneys at each table.- In this case, that means only one attorney per side may sit at counsel table. Other attorneys must sit elsewhere in the courtroom.

Counsel must wipe down shared equipment after each use. The only shared equipment will be the podium. After an attorney has finished their questioning, the attorney must wipe down the area. Disinfecting wipes will be provided. Microphones will be provided with disposable covers that counsel or the witness must remove and dispose of after each use.